

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

CAROL A. DAVIS,

Plaintiff,

v.

**MICHAEL J. ASTRUE,¹
Commissioner of Social Security,**

Defendant.

1:04CV1096

RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

On review of the file, for the reasons fully articulated in Defendant's motion to dismiss for failure to prosecute, and for failure of Plaintiff to show cause under the Court's Order of July 30, 2008,

IT IS RECOMMENDED that Defendant's motion to dismiss (Docket No. 24) be granted and that this action be dismissed with prejudice.

/s/ P. Trevor Sharp

United States Magistrate Judge

Date: December 9, 2008

¹ Michael J. Astrue became the Commissioner of Social Security on February 12, 2007. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Michael J. Astrue should, therefore, be substituted for Commissioner Jo Anne B. Barnhart as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).